

annual cost-of-capital figure is also an input into the Uniform Railroad Costing System and therefore has a direct bearing on rate reasonableness cases.

Equity markets' incentivizing railroads to lower operating ratios could translate into increases in the cost-of-capital figure. My concern is that, as a result, a railroad might be found to be revenue inadequate even when, in reality, it is financially healthy. Likewise, a higher cost-of-capital figure can affect whether a particular commodity shipment is above or below the 180% R/VC threshold and is therefore eligible for rate review by the Board.

Separately and in addition to the above matters, the need for continued scrutiny arises from my increasing concern that there is a point beyond which the demands of equity markets for a return of capital may impact the ability of the railroads to meet their common carrier obligations and may deprive the network of the capital it requires to support the needs of the public and the national defense.

Finally, given that the United States and the entire world are presently facing health and economic crises, and that these crises have adversely affected the railroad industry along with the other parts of the economy, I recognize that my above stated concerns are not as immediate as they might otherwise be. Nevertheless, as the economy recovers and the railroad industry regains its full strength, the concerns outlined above may well reoccur and warrant the continued scrutiny I have urged.

Jeffrey Herzig,  
Clearance Clerk.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 200617-0163]

RIN 0648-BJ79

#### Fisheries of the Northeastern United States; Monkfish; Framework Adjustment 12

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** We are proposing to approve and implement specifications submitted by the New England and Mid-Atlantic Fishery Management Councils in Framework Adjustment 12 to the Monkfish Fishery Management Plan. This action would set monkfish specifications for fishing year 2020 and project specifications for the 2021 and 2022 fishing years. This action is needed to establish allowable monkfish harvest levels that will prevent overfishing.

**DATES:** Public comments must be received by July 30, 2020.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2020-0064, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0064](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0064), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). If you are unable to submit your comment through [www.regulations.gov](http://www.regulations.gov), contact Allison Murphy, Fishery Policy Analyst, [allison.murphy@noaa.gov](mailto:allison.murphy@noaa.gov).

Copies of the Framework 12 document, including the Regulatory Flexibility Act Analysis and other supporting documents for the specifications, are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The specifications document is also accessible via the internet at: <https://www.nefmc.org/management-plans/monkfish>.

**FOR FURTHER INFORMATION CONTACT:** Allison Murphy, Fishery Policy Analyst, (978) 281-9122.

#### SUPPLEMENTARY INFORMATION:

#### Background

The monkfish fishery is jointly managed under the Monkfish Fishery Management Plan (FMP) by the New England and the Mid-Atlantic Fishery Management Councils. The fishery extends from Maine to North Carolina from the coast out to the end of the continental shelf. The Councils manage the fishery as two management units, with the Northern Fishery Management Area (NFMA) covering the Gulf of Maine and northern part of Georges Bank, and the Southern Fishery Management Area (SFMA) extending from the southern flank of Georges Bank through Southern New England and into the Mid-Atlantic Bight to North Carolina.

The monkfish fishery is primarily managed by landing limits and a yearly allocation of monkfish days-at-sea calculated to enable vessels participating in the fishery to catch, but not exceed, the target total allowable landings (TAL) and the annual catch target (ACT), which is the TAL plus an estimate of expected discards, for each management area. Both the ACT and the TAL are calculated to maximize yield in the fishery over the long term.

#### Proposed Measures

##### 1. Specifications

We are proposing to adjust the NFMA and SFMA quotas for fishing year 2020 (Table 1), based on the Councils' recommendations. We are also projecting these quotas for fishing years 2021 and 2022. On August 21, 2019, the New England Council's Scientific and Statistical Committee (SSC) recommended acceptable biological catch levels in the NFMA and SFMA for fishing years 2020-2022. The New England Council approved the specifications on September 24, 2019. The Mid-Atlantic Council approved the specifications on October 7, 2019. Both Councils' recommendations for the 2020-2022 monkfish specifications are based on the results of the 2019 assessment update and the recommendations of the SSC.

The Councils recommended a 10-percent increase in the acceptable biological catch and annual catch limit in the NFMA and status quo acceptable biological catch and annual catch limit in the SFMA, when compared to the 2017-2019 specifications. Discards, calculated using a moving average of the most recent three years of data, increased in both areas, but more significantly in the SFMA. Data indicate that this substantial increase is due to the large 2015 monkfish year class being discarded by scallop dredge gear. After

accounting for discards, the Councils recommend a 5-percent increase in the total allowable landings for the NFMA and a 35-percent decrease in the total allowable landings for the SFMA. Despite these changes, both Councils

recommend no adjustments to day-at-sea allocations or landing limits. The small increase in the NFMA is expected to convert fish that were discarded in previous fishing years into landings. The Councils do not expect the lower

SFMA total allowable landings to be constraining because SFMA landings have been lower than the proposed 2020 total allowable landings since 2008.

TABLE 1—PROPOSED FRAMEWORK 12 SPECIFICATIONS

Catch limits	NFMA		SFMA	
	Proposed 2020–2022 specs (mt)	Percent change from 2019	Proposed 2020–2022 specs (mt)	Percent change from 2019
Acceptable Biological Catch .....	8,351	10	12,316	0
Annual Catch Limit .....	8,351	10	12,316	0
Management Uncertainty .....	3 percent	.....	3 percent	.....
Annual Catch Target (Total Allowable Landings + discards) .....	8,101	10	11,947	0
Discards .....	1,477	.....	6,065	107
Total Allowable Landings .....	6,624	5	5,882	–35

At the end of each fishing year, we evaluate catch information and determine if the quota has been exceeded. If a quota is exceeded, the regulations at 50 CFR 648.96(d) require the Councils to revise the monkfish ACT if it is determined that the annual catch limit was exceeded in any given year, or for NMFS to revise the monkfish ACT if the Councils fail to take action. We would publish a notice in the **Federal Register** of any revisions to these proposed specifications if an overage occurs. We expect, based on preliminary 2019 year end accounting, that no adjustment is necessary. We will provide notice of the 2021 and 2022 quotas prior to the start of each respective fishing year.

## 2. Regulatory Corrections

Using our authority under section 305(d) of the Magnuson-Stevens Act, we are clarifying trip declarations requirements at 50 CFR 648.10 for vessels making trip declarations through the interactive voice response system. Regulations require vessels using a vessel monitoring system to submit a trip declaration less than 1 hour prior to leaving port. No timeframe is specified for vessels using the interactive voice response system. This rule proposes to clarify that both declarations must be made less than 1 hour prior to leaving port. This requirement is intended to make the declaration requirements consistent for all monkfish fishery participants.

Additionally, we are using the same authority to correct the monkfish incidental catch limits in four Northeast multispecies exempted fisheries specified in § 648.80. In the monkfish Amendment 5 final rule (76 FR 30265; May 25, 2011), we updated tail-to-

whole-weight (landed) conversion factor from 3.32 to 2.91, and applied this updated conversion to the monkfish possession limits in § 648.94. We inadvertently failed to update the incidental monkfish possession limits the Northeast multispecies exempted fisheries at §§ 648.80(a)(6)(1)(B), (a)(10)(i)(D), (b)(3)(ii), and (h)(3)(iii)(A) and intend to correct the incidental monkfish whole weight possession limits, using the 2011 conversion factor.

## Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the Monkfish FMP, Framework 12, provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this action, if adopted, would not have a significant economic effect on a substantial number of small entities.

As outlined in the preamble of this rule, the purpose of this action is to implement Framework 12 to the Monkfish FMP. Framework 12 would set monkfish specifications for fishing years 2020–2022. This rule proposes a 5-percent quota increase in the NFMA and a 35-percent quota decrease in the SFMA, when compared to 2019. This framework is needed to establish allowable monkfish harvest levels that will prevent overfishing.

We issued 540 limited access monkfish permits and 1,333 open access monkfish permits as of May 1, 2019. Dealer records indicate that 683 of these permits landed monkfish for commercial sale in calendar year 2018. Ownership data collected from permit holders indicate that there are 1,379 distinct business entities that hold at least one limited-access or open-access monkfish permit, and are directly regulated by the proposed specifications. For entities that held one monkfish permit, 908 entities held an open access permit and 263 entities held a limited access permit. For the purposes of the Regulatory Flexibility Act, we define a small business in the commercial harvesting sector as a firm with receipts (gross revenues) of up to \$11 million for commercial fishing businesses. Of the 1,379 entities, all but 12 entities are categorized as small businesses.

This action is expected to have no to slightly positive economic impacts on both large and small entities. In the NFMA, the proposed action could result in modest increases in catch per unit effort; economic theory holds that this will result in increased profitability, all else held constant. In the SFMA, the proposed action is expected to have no economic impact because the proposed quota remains higher than landings in recent years.

This action is not expected to have a significant impact on a substantial number of small entities. Nearly all monkfish entities (99 percent) are considered small entities. Regulated small entities identified in this analysis are expected to experience no impacts to slightly positive impacts. No impacts are expected to the 12 regulated large entities, as they have little dependence

on monkfish revenue. Small entities would not be placed at a competitive disadvantage relative to large entities, and the regulations would not reduce the profit for any small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing.

Dated: June 17, 2020.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

#### PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.10, revise paragraph (h)(1) introductory text to read as follows:

#### § 648.10 VMS and DAS requirements for vessel owners/operators.

\* \* \* \* \*

(h) \* \* \*

(1) Less than 1 hr prior to leaving port, for vessels issued a limited access NE multispecies DAS permit or, for vessels issued a limited access NE multispecies DAS permit and a limited access monkfish permit (Category C, D, F, G, or H), unless otherwise specified in paragraph (h) of this section, or an occasional scallop permit as specified in this paragraph (h), and, less than 1 hr prior to leaving port, for vessels issued a limited access monkfish Category A or B permit, the vessel owner or authorized representative must notify the Regional Administrator that the vessel will be participating in the DAS program by calling the call-in system and providing the following information:

\* \* \* \* \*

■ 3. In § 648.80, revise paragraphs (a)(6)(i)(B), (10)(i)(D), (b)(3)(ii), and (h)(3)(iii)(A) to read as follows:

#### § 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

\* \* \* \* \*

(a) \* \* \*

(6) \* \* \*

(i) \* \* \*

(B) An owner or operator of a vessel fishing in this area may not fish for, possess on board, or land any species of fish other than whiting and offshore hake combined—up to a maximum of 30,000 lb (13,608 kg), except for the following, with the restrictions noted, as allowable incidental species: Atlantic herring, up to the amount specified in § 648.204; longhorn sculpin; squid, butterfish, and Atlantic mackerel, up to the amounts specified in § 648.26; spiny dogfish, up to the amount specified in § 648.235; red hake, up to the amount specified in § 648.86(d), monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/146 lb (66 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

\* \* \* \* \*

(10) \* \* \*

(i) \* \* \*

(D) The following species may be possessed and landed, with the restrictions noted, as allowable incidental species in the Nantucket Shoals Dogfish Fishery Exemption Area: Longhorn sculpin; silver hake—up to 200 lb (90.7 kg); monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/146 lb (66 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter; and skate or skate parts—up to 10 percent, by weight, of all other species on board.

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(ii) *Possession and net stowage requirements.* Vessels may possess regulated species while in possession of nets with mesh smaller than the minimum size specified in paragraphs (a)(4) and (b)(2) of this section when fishing in the SNE Exemption Area defined in paragraph (b)(10) of this section, provided that such nets are stowed and are not available for immediate use as defined in § 648.2, and provided that regulated species were not harvested by nets of mesh size smaller than the minimum mesh size specified in paragraphs (a)(4) and (b)(2) of this section. Vessels fishing for the exempted species identified in paragraph (b)(3)(i) of this section may also possess and retain the following species, with the restrictions noted, as incidental take to these exempted fisheries: Conger eels; sea robins; black sea bass; red hake; tautog (blackfish); blowfish; cunner; John Dory; mullet; bluefish; tilefish; longhorn sculpin; fourspot flounder; alewife; hickory shad; American shad; blueback herring; sea raven; Atlantic croaker; spot; swordfish; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/146 lb (66 kg) whole weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less; and skate and skate parts (except for barndoor skate and other prohibited skate species (see §§ 648.14(v)(2) and 648.322(g))—up to 10 percent, by weight, of all other species on board.

\* \* \* \* \*

(h) \* \* \*

(3) \* \* \*

(iii) \* \* \*

(A) A vessel fishing in the Scallop Dredge Fishery Exemption Areas specified in paragraphs (h)(3)(i) and (ii) of this section may not fish for, possess on board, or land any species of fish other than Atlantic sea scallops and up to 50 lb (23 kg) tail weight or 146 lb (66 kg) whole weight of monkfish per trip.

\* \* \* \* \*

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